

Drunk Driving Trust Fund (DDTF) Victim Assistance Program



DDTF Program Guidelines February 2003

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VICTIMS OF DRUNK DRIVING TRUST FUND (DDTF) PROGRAM GUIDELINES

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I. Introduction

A. The Massachusetts Office for Victim Assistance

The Massachusetts Office for Victim Assistance (MOVA) was first established by law in 1984 as an independent state agency whose purpose is to advocate for and assist victims of crime. The activities of MOVA are governed by the Victim and Witness Assistance Board, whose chairman is the Attorney General, and whose other four Board members consist of two district attorneys and two crime victims. The Board, together with the MOVA staff, sets policy for crime victim issues and improves services to victims of crime in the Commonwealth. MOVA and its Board have administered funding for victim services programs since 1984.

B. Legislative History

The Victims of Drunk Driving Trust Fund (DDTF) was created by Chapter 52 of the Acts of 2002, which enacted Section 66 of Chapter 10 and changed Section 24(1)(a)(1) of Chapter 90 of the Massachusetts General Laws. It was enacted on March 8, 2002.

Anyone who is convicted, placed on probation, granted a continuance without a finding, pleads guilty to, admits to a finding of sufficient facts for operating a motor vehicle while under the influence of intoxicating liquor, marijuana, narcotic drugs, depressants or stimulant substances is subject to an assessment of \$50.

The courts collect this assessment, which is not subject to waiver for any reason. This assessment is in addition to, not in lieu of, the Victim/Witness Assessment in Massachusetts General Laws Chapter 258B, or any other fee imposed by the court. The state treasurer is the custodian of the fund.

The Victim and Witness Assistance Board awards and administers grants from the fund to provide services to victims of incidents caused by persons driving under the influence of drugs or alcohol. All monies not expended by the end of a fiscal year will be reverted and remain available for expenditure in the subsequent fiscal year.

II. Victim Populations

According to the legislation, funding will go to community-based programs in Massachusetts. Funding will support services directed toward the needs of survivors, surviving family members, witnesses, and secondary victims of Operating Under the Influence (OUI) incidents. The term “victims” will be used to refer routinely to these client populations throughout these guidelines.

III. Agency and Program Eligibility Criteria

A. Agency Capacity

The first year of funding will be targeted at community-based, nonprofit agencies that can demonstrate a record of providing effective services to crime victims. The program must

have the approval and support of the agency's Board of Directors in applying for DDTF funding. Nonprofit applicants must have filed a report for the most recent period with the Attorney General's Division of Public Charities. The program must have IRS Section 501(c)(3) status.

B. Demonstrate Record of Effective Services

The agency must have the support and approval of its services by the community, a history of providing direct victim services, preferably including services to victims of OUI crimes, in a cost-effective manner, and financial support from other sources. New programs that have not yet demonstrated a record of providing victim services may be eligible to receive DDTF funding if they can demonstrate financial support for a minimum of two years and currently provide services that have particular interest or significant relevance to the OUI victim population.

C. Coordinated Public and Private Efforts

To ensure continuity of support for the victim and to avoid duplication of effort, a program must demonstrate that it coordinates its activities with other community and criminal justice-based service providers in the community. A minimum of two letters of support are required as verification from District Attorney's Offices and other providers.

D. Assist with Victim Compensation

To meet the minimum eligibility requirements, applicants must adhere to the following: maintain a supply of crime victim compensation brochures and applications; establish agency policies and procedures to identify clients who may be eligible for crime victim compensation benefits; ensure agency staff is familiar with the crime victim compensation program; and provide assistance to clients in filling out applications. The purpose of this provision is to ensure that victims are aware of, and appropriately accessing, victim compensation benefits.

E. Comply with DDTF Provisions and Guidelines

Applicants must maintain appropriate programmatic and financial records that fully disclose the amount and disposition of DDTF funds received.

F. Client-Counselor Confidentiality

Applicants must have written policies to ensure that confidential client information is not released without the consent of the client. This confidentiality provision does not override existing state law governing the disclosure of information under mandatory reporting statutes, (e.g., suspected child abuse or court orders). A copy of the policy must be provided and approved by MOVA as part of the application process.

G. Abide by Additional Eligibility Criteria

Applicants must abide by criteria established by the Board and MOVA, including submitting statistical and programmatic information on the use and impact of DDTF funds, as requested by MOVA.

H. Provide Direct Services to OUI Victims at No Charge

Contracted services refer to those services outlined in the program narrative and the program timetables. Any deviation from this provision requires prior approval by MOVA. All direct services provided by DDTF funded staff must be free of charge to victims.

I. Program Income

No program income can be generated through the use of DDTF funds. The program may charge registration fees for trainings for providers if it is necessary to cover overhead costs; however, it **cannot make a net profit** while doing so. Educational programs for survivors must be provided free of charge.

J. Non-Discrimination

By state law, any agency entering into contractual agreement with the Commonwealth must comply with all applicable state statutes, rules, and regulations prohibiting discrimination in employment and service delivery, including but not limited to:

1. Civil Rights. Title VI of the Civil Rights Act of 1973, as amended; Title IX of the Education Amendments of 1972, as amended; the Age Discrimination Act of 1975, as amended; OBRA of 1975, as amended; Title VII of the Civil Rights Act of 1964, as amended; 29 USC s.791 et seq.; Executive Orders 227 and 237; M.G.L. c.151B; and M.G.L. c.272, s.92A, s.98 et seq., or any amendments to these provisions.

2. Disabilities. Americans with Disabilities Act, 42 USC 12101 et seq., 28 CFR Part 35; Executive Orders 227 and 246; M.G.L. c.151B; and M.G.L. c.272, s.92A, s.98 et seq., or any amendments to these provisions.

IV. Eligible Services

DDTF funds may only be used to provide free services to OUI victims.

DDTF funding is available for comprehensive services for OUI victims. Regardless of the type of service provided, DDTF funded programs must provide free services to OUI victims. DDTF funded programs must also assist victims in seeking Victim Compensation.

A. Recommendations

DDTF funded programs are encouraged to utilize and recruit volunteers, develop diverse training initiatives, and provide services that complement existing public, community-based services.

B. Unallowable Costs.

*The following list of services, activities and costs **cannot** be supported with DDTF grant funds:*

1. **Exclusive perpetrator rehabilitation and counseling.** Subgrantees shall not knowingly use DDTF funds to exclusively provide perpetrator rehabilitation and/or counseling.
2. **Fundraising activities performed by DDTF funded staff during DDTF hours.**
3. **Indirect organizational costs** such as liability insurance on buildings and vehicles; capital improvements and/or repairs made to leased buildings; security guards and body guards; property losses and expenses; real estate purchases; mortgage payments; construction costs.
4. **Out-of-pocket victim expenses** incurred as a result of a crime or to supplement crime victim compensation awards to victims of crime for such costs as funeral expenses, lost wages, medical bills, etc.
5. **Medical costs.** DDTF funds cannot support medical costs resulting from victimization. DDTF funds cannot pay for nursing home care, home health-care costs, inpatient treatment costs, hospital care, and other types of emergency and non-emergency medical and/or dental treatment.
6. **Relocation expenses** such as travel expenses; security deposits on housing; ongoing rent; mortgage payments; **and victim/witness expenses** such as travel to testify in court, subsequent lodging and meal expenses, victim protection costs, and other costs which are considered part of the criminal justice agency's budget.
7. **Generating a net profit on DDTF funded personnel time.** All DDTF funded direct services are to be provided free of charge. Training fees can be charged by the program, however, generating a net profit is unallowable.
8. **Supplantation.** If a program receives DDTF funding for a service or a staff person's salary/time, it cannot bill any other agency or program for that same service or salary.

V. Financial Policies and Procedures

A. Budgeting and Reimbursement for Expenditures

1. **Program budgets must include only those expenses to be paid by DDTF funding.**

Please note: DDTF funded direct services must be provided at no cost to victims. It is unallowable to generate a net profit on DDTF funded personnel time.

Budgets are submitted to MOVA during the application process and reviewed by the DDTF Procurement Team designated by MOVA. Budgets should not be considered finalized and DDTF subgrantees should not commit funds until a fully signed contract with MOVA is executed.

2. With prior approval from MOVA's DDTF Program Manager, funding between approved program budget line items may shift.

3. Reimbursements will be made only for expenses included in the approved program budget and application, and only after the approved expenses are incurred and expended. Dividing any approved budget line item total by four to get quarterly invoice totals (also known as 1/4 billing) is unallowable. Requests for reimbursement must be submitted on forms provided by MOVA on a quarterly basis. Programs that fail to submit invoices over 2 consecutive quarters will be required to submit complete support documentation with all subsequent invoices.

4. Reimbursement invoices are processed on the 15th day of each month following the quarter-end or on the next business day if the 15th falls on a holiday or weekend. Consistent with the Commonwealth's policy, payments will be issued no later than 30 days after the 15th for all error-free invoices received by MOVA on or before the 15th. Invoices received after the 15th are processed during the next month's cycle. Agencies may check on their reimbursements for the current and past fiscal year by accessing the *MASSfinance* VendorWeb site at:

<https://massfinance.state.ma.us/VendorWeb/vendor1.asp>.

5. DDTF funds may not be subcontracted to other organizations to provide services. Limited use of consultants, as described in the approved program narrative/budget, is allowable.

6. DDTF funds may only be used for approved allowable services as specified in the program narrative and allowable related services delivered during the contract period. Final invoices must be received by August 1, 2004 at 4:00pm. Remaining funds will be reverted to MOVA after this time.

7. If a program budgets for a specific salary or salary increase, it must pay the DDTF-contracted employee that amount. Agencies can pay DDTF funded employees more than the budget amount, but they cannot pay a DDTF funded employee less than the budgeted amount. Agencies can use DDTF funds to pay employee salary increases only after prior approval from MOVA.

B. Timecards

For part-time DDTF staff, DDTF time must be delineated from other funding sources by associating the term "DDTF" with the hours worked on the DDTF program. Any other method used to divide staff time between or among funding sources must have advance approval from MOVA and comply with state audit standards and generally accepted accounting procedures.

C. Accounting and Independent Audit Procedures

1. All DDTF recipients must maintain adequate accounting and control procedures to ensure that DDTF funds are not used to reimburse expenses funded by or charged to other funding sources. Any duplication of funding sources to support a service already

funded by DDTF will be considered supplantation and is not allowed. All allocation methods used to determine DDTF reimbursement expenditures must be in compliance with accounting procedures specified in OMB Circular A-122 (for nonprofit agencies).

2. All DDTF recipients must keep appropriate programmatic and financial records that fully disclose the amount and disposition of DDTF funds received. This includes financial documentation for disbursements, daily time and attendance records specifying time devoted to DDTF allowable services, client files; records documenting the portion of the project funded by other sources, and other records which would facilitate an effective audit. All accounting records must be made available upon request to MOVA staff or their agents.

3. All DDTF recipients must comply with Generally Accepted Accounting Procedures (GAAP) and applicable state laws, rules, and regulations. If you or your auditor have questions regarding applicable accounting procedures, contact MOVA.

D. Funding Source Attribution Statements

All materials publicizing or resulting from grant activities produced by a DDTF funded program (e.g. publications, flyers, pamphlets, advertisements, press releases, and notifications) must contain an acknowledgment of grant agency assistance. An acknowledgment of support shall be made through use of the following footnote: "This project was supported by the Massachusetts Office for Victim Assistance through a grant from the Victims of Drunk Driving Trust Fund (DDTF)."

E. Funding Obligation

The Board's obligation to pay under this grant program is contingent upon receipt of DDTF funds. The Board may terminate any agreement with a DDTF funded program if funds become unavailable at any time, as stated in the contract, or for non-compliance with any other terms stated in the contract or contract appendices.

VI. Program Policy and Reporting Requirements

A. Delays

The Board reserves the right to revise scheduled dates for DDTF applications and reviews. Any changes in the scheduled dates will be posted on the state procurement Web site: www.comm-pass.com.

B. Certifications, Terms, and Conditions

The application and Service Contract spell out certifications and terms and conditions that must be fully understood and executed in order to enter into a contract with the Commonwealth. The Service Contract refers specifically to the personnel outlined on the budget, the services put forth on the program narrative and the objectives outlined on the program timetables. Any program changes must be put forth in writing to MOVA to be in compliance with the applicant's service contract. Applications will not be approved without a full set of signed certifications (included in the application for funding). All

DDTF-funded services are additionally subject to the requirements of the DDTF Program Guidelines Manual.

C. Termination and Default

MOVA will work with the program to resolve issues of non-compliance and reserves the right to terminate a contract at any time. Termination and default procedures are expressly stated in the Service Contract.

D. Waivers

The Board, through the Massachusetts Office for Victim Assistance (MOVA), may waive any provision within its authority contained in this Program Manual. Waivers cannot be given for provisions that are beyond the scope of the Board's authority. Any program that desires a waiver of any of the provisions of this Program Manual must initiate the process in writing. A written request for a waiver does not excuse a program from following the provisions of this Program Manual. The Board, through MOVA, may choose to grant a request, grant a request in part, or not grant a request for a waiver.

E. Requirements

DDTF funded programs must comply with the following program requirements:

1. Maintain statutorily required civil rights statistics on victims served by race or national origin, sex, age, and disability, within the grant period; and permit reasonable access to accounting records, documents, papers, and other records to determine whether there has been compliance with applicable civil rights laws.

2. Submit semi-fiscal year statistical and programmatic reports as requested by MOVA. Statistics are to be reported on services provided only by DDTF paid staff, and any paid or unpaid staff or volunteers of the DDTF program. Services provided by other staff should not be included in the statistical report.

A blank statistics report form will be available to the DDTF program from the MOVA Web site: www.mass.gov/mova. This form must be used to submit the semi-annual statistical reports. Instructions on completing the report are included in the form.

Subgrantees are responsible for submitting a current, completed statistical report for the project period after the close of each semi-fiscal year. Programs must complete the cover page of each report with the correct reporting period and report due date. Reports are due in the MOVA office after the close of each semi-fiscal year. The reporting period and due dates are as follows:

Reporting period 1: August 15 through December 31	Due date: January 15
Reporting period 2: January 1 through June 30	Due date: July 15

Subgrantees must follow reporting timeframes established by MOVA if different from that listed above. Subgrantees should seek guidance from MOVA staff if they do not understand the forms or the instructions, or are unsure as to how a case should be

reported.

3. Report any change in DDTF funded personnel to MOVA within two weeks of the time the program director has received or issued a notice necessitating a change in DDTF funded staff. MOVA must have the resumes of all DDTF funded personnel on file. **Any and all budget changes must be requested in writing to MOVA and approved prior to the change. This includes hiring temporary personnel for DDTF funded vacancies.**

4. DDTF funded personnel who take extended leave or terminate a position cannot be billed to DDTF beyond the accrued vacation and sick time, not to exceed 6 weeks. Program policy that provides extended paid medical leave or paid family medical leave beyond 6 weeks cannot receive reimbursement from DDTF. Sick or Vacation time charged to DDTF must be well documented on timecards and outlined in the agency personnel manual.

5. Report any changes in the program structure which affect the quantity or quality of service delivery prior to implementation of the programmatic change.

6. Maintain client-counselor confidentiality. DDTF subgrantees cannot use or reveal any client information without the consent of the client. MOVA reserves the right to review any documentation to confirm that counseling sessions did occur, for the purposes of program monitoring. This confidentiality provision does not override or repeal existing state law governing the disclosure of information under mandatory reporting statutes.

7. Cooperate with MOVA in monitoring the project. Monitoring activities include, but are not limited to, site visits by MOVA staff, progress reports on implementation of goals and objectives, and submission of financial records and statistical performance reports, as required by MOVA. MOVA must be allowed access to written information or other materials made or received by the provider in conjunction with the grant program. It is expressly understood that substantial evidence of the provider's refusal to comply with this provision shall constitute a breach of contract. This provision does not apply to confidential client records.

8. Retain all financial records, supporting documents, statistical reports, and other documents pertaining to the contract for a period of seven years after the termination of the contract, or if an audit has not been resolved at the end of seven years, the records shall be retained until the resolution of the audit findings.

9. Avoid Conflicts of Interest. Agencies must comply with state rules which prohibit the use of public funds for personal gain. Subgrantees must avoid any actions which might result in, or create the appearance of, using public funds or publicly funded positions for private gain, for giving preferential treatment to any person, or adversely affecting the confidence of the public in the integrity of the government or the DDTF funded program. Subgrantees may not refer clients seeking or receiving DDTF funded

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services to the private practice of any employee, official, or person affiliated with the grantee.

VII. Appendix

A. M.G.L.A. 10 § 66

AN ACT ESTABLISHING A VICTIMS OF DRUNK DRIVING TRUST FUND.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a victims of drunk driving trust fund, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 10 of the General Laws is hereby amended by adding the following section:-

Section 66. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Victims of Drunk Driving Trust Fund. The fund shall consist of monies paid to the courts pursuant to the third paragraph of subparagraph (1) of paragraph (a) of subdivision (1) of section 24 of chapter 90, together with any interest or earnings accrued on such monies through investment or deposit. The state treasurer shall be the custodian of the fund and shall receive, deposit and invest all monies transmitted to him under this section in accordance with sections 34, 34A and 38 of chapter 29 in such a manner as to secure the highest rate of return available consistent with the safety of the fund, and shall credit interest and earnings on the trust fund corpus to the trust fund. The state treasurer shall transfer funds from the income and receipts of the fund to the victim and witness assistance board, as established in section 4 of chapter 258B, from time to time, at the request of the board. The board shall award and administer grants from the fund, without further appropriation, to community-based programs in the commonwealth to provide counseling and support services to victims of accidents caused by persons driving under the influence of drugs or alcohol. The board shall develop, in conjunction with the department of public health's bureau of substance abuse and the Massachusetts chapter of Mothers Against Drunk Driving, written criteria for the awarding of those grants, which shall be evaluated and, if necessary, revised on an annual basis. For the purposes of this section, the word "victim" shall have the same meaning as defined in section 1 of said chapter 258B.

The board shall file a report detailing the amount of funds collected and expended from the fund along with a copy of the written criteria used to expend the funds to the house and senate committees on ways and means not later than August 15 of each calendar year. An amount not to exceed 5 per cent of the total funds deposited in the fund may be expended by the board for administrative costs directly attributable to the grants and programs funded by the fund, including, but not limited to, the costs of clerical and support personnel. Any unexpended balance of monies in the fund at the end of the fiscal year shall not revert to the General Fund but shall remain available for expenditure from such fund in subsequent fiscal years. No expenditure made from the fund shall cause the fund to become deficient at any point during a fiscal year.

SECTION 2. Subparagraph (1) of paragraph (a) of subdivision (1) of section 24 of chapter 90 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the second paragraph the following paragraph:-

There shall be an assessment of \$50 against a person who is convicted, placed on probation or granted a continuance without a finding or who otherwise pleads guilty to or admits to a finding of sufficient facts for operating a motor vehicle while under the influence of intoxicating liquor or under the influence of marihuana, narcotic drugs, depressants or stimulant substances, all as defined by section 1 of chapter 94C, pursuant to this section or section 24D or 24E or subsection (a) or (b) of section 24G or section 24L. The assessment shall not be subject to waiver by the court for any reason. If a person against whom a fine is assessed is sentenced to a correctional facility and the assessment has not been paid, the court shall note the assessment on the mittimus. The monies collected pursuant to the fees established by this paragraph shall be transmitted monthly by the courts to the state treasurer who shall then deposit, invest and transfer the monies, from time to time, into the Victims of Drunk Driving Trust Fund established in section 66 of

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chapter 10. The monies shall then be administered, pursuant to said section 66 of said chapter 10, by the victim and witness assistance board for the purposes set forth in said section 66. Fees paid by an individual into the Victims of Drunk Driving Trust Fund pursuant to this section shall be in addition to, and not in lieu of, any other fee imposed by the court pursuant to this chapter or any other chapter. The administrative office of the trial court shall file a report detailing the amount of funds imposed and collected pursuant to this section to the house and senate committees on ways and means and to the victim and witness assistance board not later than August 15 of each calendar year.